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09/736,107	12/13/2000	Kenji Fujioka	F-6779	3664

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EXAMINER
ENATSKY, AARON L

ART UNIT	PAPER NUMBER
3713	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/736,107	Applicant(s) FUJIOKA ET AL.	
	Examiner Aaron L Enatsky	Art Unit 3713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 May 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 9 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Amendment

Examiner acknowledges receipt of amendment on 5/29/03. The arguments set forth in the response are addressed herein below.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-19, 21, 25-34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 4 and 7, lines 14 and 14 respectively, Applicant requires that "the data" is transferred, and then refers to "the data" again, and requires that it is again transferred or that another data set is transferred.

Claims 4 and 7 recites the limitation "the data" in lines 14 and 14 respectively. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 5,971,855 to Ng.

Ng teaches a monitor for displaying game images (Fig. 3A), a plurality of operable members (Fig. 3A-3 C), a data transmitter for transmitting data to an external device (Fig 1B), a mode for training a character (6:34), a mode for transmitting data (Fig. 1B), buttons to train a character (6:15-24), a microprocessor controller which drives the game device (5:1-16), obtaining training values which add or subtract from an initial training value (5:51-65), item giving device for giving items to a character which affect training score/state (6:34-47), a training judge for determining a success endeavor (6:45-47), data of a trained fighter is transmitted to an external device for participating in a game (7:42-8:44). Ng does not disclose transmitting initial training values along with data of a successfully trained character. Ng does however disclose a user can post game scores to a web site (2:47-49) as well as transmitting various statistics of a user's virtual character (9:1-10:67). Through posting of user scores and statistics, Ng shows that initial training values can be transmitted. The posted statistics of a user would be initial training values prior to an opponent match or new training. The simultaneous

transmittal of both data types, lacking criticality, is considered well within the capabilities of one of ordinary skill, where one would be motivated to transmit both training values at the same time to reduce the number of on-line connections needed.

Ng discloses various commands related to transmitting and receiving data to and from an external device (8:50-11:10). Furthermore, claims of such, directed to communication between devices are standard and well known in computer communication. Applicant does not set forth any novel communication techniques that would further distinguish the invention from previous communication protocols that one of ordinary skill in the art would readily recognize to implement for this application.

Ng discloses using a cable for data communication (2:65-67).

Ng teaches the claimed limitations as discussed above, but does not specifically disclose transmitting items given to a character to an external device. However, Ng teaches bi-directional communication between a first device and a variety of other devices, such as another game apparatus or a PC. Ng also teaches of a first device receiving feature upgrades and restoring aspects of training scores, which would be receiving items from a remote device to affect training scores as paralleled above in providing items per-programmed into the device (2:33-60). Ng also provides for a competition game of combat over the Internet between two remote game devices. It is considered well within one of ordinary skill in the art to provide combat characters with weapons for battling other character. As such, an item could be received for training a fighter for later combat games, therefore when playing a combat game between two remote fighters, it would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify Ng to provide for sending an item used for training with the fighter data, so that during the combat game a fighter could use that sent item during combat.

Ng teaches receiving from an external source items and other character modifications. Ng also teaches having the ability to train more than one character (5:47-50). While not disclosing where the other characters are produced in the game, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have received the extra characters from the computer or the Internet to provide a new sales distribution channel for the game manufacturer or provide a game player with character variety to keep the combat game more interesting.

Ng teaches having a user post game scores to a website (2:47-49) and transmitting various statistics of a user's virtual character (9:1-10:67) as discussed above. Ng does not disclose displaying how many times a character has been transmitted to an external device nor displaying the information on the monitor, however as taught by Ng, one could readily access how many time transfers have occurred though a player's combat history with other players seen on the score posting on the Internet. Furthermore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the scores posted to monitor of the game device so that statistics of the game history would be portable with the device and viewable while not connected to the network.

Ng teaches of a first game of training and developing a character, and another video game program where characters participate in a combat game (Abstract). Ng teaches receiving new characters and new character enhancements as discussed above where the character enhancements are received from an external device (2:47-60). Items different than those already

received by a character would be the new enhancements that are available on an external device through the web.

Ng teaches setting probability for a plurality of experience points through teaching randomly assigned point values (7:41-8:21).

Ng teaches that known prior art hand-held game apparatuses used wireless connections as well as the above described cable connection. Although Ng does not teach an embodiment using a wireless connection, replacing a cable communication mechanism has well known art-accepted advantages over a tethered connection. One distinct advantage of using a wireless connection is long-range portability from a communication point and the elimination of wire clutter. Therefore, one would be motivated to modify Ng to use wireless interconnection methods to allow for remote, longer distance communication and the elimination of wires. Infrared signals for wireless communication are considered analogous and art accepted equivalents to wireless radio communication methods.

Response to Arguments

Applicant's arguments with respect to claims 1-33 have been considered but are not considered persuasive.

Applicant provides two arguments, the first regarding the feature of transmitting both initial training values and post training values of a character, the second regarding transferring given items to an "external side".

In regards to the first argument, Examiner continues to hold that the particular type of transferred data in the instant invention lacks criticality. Applicant has cited the instant

specification (page 2, lines 8-13) to prove criticality of the feature. Examiner is unconvinced that critical functionality is equivalent to "because such invention realizes a highly ingenious and interesting game by enabling a character trained by a game player to be retrained on other sides...". Examiner has already proven that prior art teaches transmitting player character data via various communication mediums. The issue is whether or not one of ordinary skill would have recognized that initial training values could be transferred along with post training values. While the specific data type is necessary for proper game execution, Examiner asserts that one of ordinary skill would know how to duplicate the transmission of post training data to include the initial training values if that particular data was necessary for proper game execution. Therefore, the particular type of transmitted data lacks criticality due to the fact that functionality exists to communicate data with a remote system. Any type of data transferred, necessary for game operation, would be considered well within the capabilities of one of ordinary skill. Such argument is also applicable to Applicant's second argument regarding transfer of items to an "external side". In addition, as Applicant has essentially requested that Examiner provide further proof of the existence of these technologies, Examiner has provided further citations of pertinent prior art that refute Applicant's assertion that the current claimed invention is non-obvious.

Citation of Pertinent Prior Art

US 6,009,458 to Hawkins et al. teaches a plurality of network-connected games, which can be provided on any electronic medium. The various games include the ability for a player to obtain new game objects, trade and sell new game objects with other game participants, select opponents, and select game characters. An example of such known gaming conventions are MUD games where a player "grows" a character, gaining experience and weapons that are saved and resumed from one game session to the next. Hawkins also allows for the game system to record and track user accounting, which includes high-score records, playing objects, statistical data, handicapping, recording persistent modification to playing objects, exclusion criteria, etc...

Pokemon Red/Blue version manual teaches a network-connected game played on portable game machines. The game allows a participant to train a character, obtain new game objects, and also transmit original training values along with new training values, such as when game objects are traded, won, or lost.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron L Enatsky whose telephone number is 703-305-3525. The examiner can normally be reached on 8-6 M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa Walberg can be reached on 703-308-1327. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Aaron Enatsky
August 6, 2003

MICHAEL O'NEILL
PRIMARY EXAMINER